

**ORDINANCE NO. 2321**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.47 ACRES, MORE OR LESS (Tax Map I.D. 1-34-11.00-178.00)**

**WHEREAS, on the 24th day of June 2013, a zoning application, denominated Change of Zone No. 1735 was filed on behalf of Holt's Dispensary, Inc.; and**

**WHEREAS, on the 12th day of September 2013, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1735 be approved; and**

**WHEREAS, on the 24th day of September 2013, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,**

**NOW, THEREFORE,**

**THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District and C-1 General Commercial District] and adding in lieu thereof the designation CR-1 Commercial Residential District as it applies to the property hereinafter described.**

**Section 2. The subject property is described as follows:**

**ALL that certain tract, piece or parcel of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying north of Route 26 (Atlantic Avenue) 200 feet west of Route 17 (Roxana Road) and being more particularly described in Deed Book 594, Page 345, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 2.47 acres more or less.**

**This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.**

**I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2321 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 24TH DAY OF SEPTEMBER 2013.**

  
**ROBIN A. GRIFFITH**  
**CLERK OF THE COUNCIL**

**The Council found that the Change of Zone was appropriate legislative action based on the following Findings of Fact:**

- 1. This is an application to amend the Comprehensive Zoning Map from AR-1 Agricultural Residential District and a C-1 General Commercial District to a CR-1 Commercial Residential District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 2.47 acres, more or less, lying north of Route 26 (Atlantic Avenue) 200 feet west of Route 17 (Roxana Road) (Tax Map I.D. 1-34-11.00-178.00).**
- 2. DelDOT commented that no use has been specified for the land to be rezoned and while it seems that the criteria could be met, the Department cannot predict the site's trip generation with enough accuracy to make a Traffic Impact Study useful; that the Department recommends that this rezoning application be considered without a Traffic Impact Study, and that the need for a Traffic Impact Study be evaluated when a subdivision or land development plan is proposed; and that the Support Facilities Report indicates that the current Level of Service for Route 26 (Atlantic Avenue) at this location is at Level of Service E.**
- 3. The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Millville Expansion of the Bethany Beach Sanitary Sewer District; that wastewater capacity is available so long as the project does not exceed 19.8 total EDU; that sewer service has not been extended to the parcel at this time; that the County will solicit bids for construction soon and sewer service could be available as early as the Spring of 2015; that an 8-inch sanitary sewer lateral is proposed to be installed to the parcel's property line along Route 26 near the parcel's southeasterly property corner; that conformity to the South Coastal Area Planning Study – 2005 Update and Route 26 West Technical Memorandum will be required; that connection to the sewer system will be mandatory; that improvements on parcels are required to connect within one year of sewer service becoming available; and that a Concept Plan is required.**

- 4. Kimberly Billings, Vice President, Secretary, and Treasurer for Holt's Dispensary, Inc., was present and stated that the property contains 2.47 acres; that the use has been a family owned business for many years (since the 1950s) which is still in operation; that they are trying to get conforming zoning for the entire parcel for the existing use on the property; that approximately half of the property is residentially zoned and half of the property is commercially zoned; and that there are many commercial/business uses in the area.**
- 5. The property has a split zoning going back to the establishment of County zoning in 1971; that this rezoning will bring the entire property under one consistent zoning district; and that the rezoning is consistent with other existing commercial uses and zoning in the vicinity.**
- 6. The site is in a Development District according to the Sussex County Comprehensive Development Plan.**
- 7. Any proposed uses could require site plan approval from the Sussex County Planning and Zoning Commission and all other agencies.**
- 8. Based on the record and recommendation of the Planning and Zoning Commission and the record created before Council, the Council approved this Application.**